

UTAH RETIREMENT SYSTEMS AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement and insurance provisions.

Highlighted Provisions:

This bill:

- ▶ increases the number of members serving on the Membership Council;
- ▶ amends the powers and duties of the Utah Retirement Systems' executive director;
- ▶ modifies provisions allowing the calculation and payment of benefits pending settlement of a dispute;
- ▶ clarifies the availability of certain retirement allowance payment options;
- ▶ amends how the service status of certain justice court judges is established;
- ▶ specifies additional names for the Tier II retirement systems and plans; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-102, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315

49-11-202, as last amended by Laws of Utah 2010, Chapters 286 and 321

49-11-204, as last amended by Laws of Utah 2008, Chapter 252

49-11-607, as last amended by Laws of Utah 2013, Chapter 316

49-12-406, as last amended by Laws of Utah 2015, Chapter 241

49-13-402, as last amended by Laws of Utah 2017, Chapter 141

49-13-406, as last amended by Laws of Utah 2015, Chapter 241

49-22-103, as enacted by Laws of Utah 2010, Chapter 266

33 **49-22-305**, as last amended by Laws of Utah 2017, Chapter 141

34 **49-22-310**, as enacted by Laws of Utah 2011, Chapter 439

35 **49-23-103**, as enacted by Laws of Utah 2010, Chapter 266

36 **49-23-304**, as last amended by Laws of Utah 2017, Chapter 141

37 **49-23-309**, as enacted by Laws of Utah 2011, Chapter 439

38 ENACTS:

39 **49-11-205**, Utah Code Annotated 1953

40

41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **49-11-102** is amended to read:

43 **49-11-102. Definitions.**

44 As used in this title:

45 (1) (a) "Active member" means a member who:

46 (i) is employed by a participating employer and accruing service credit; or

47 (ii) within the previous 120 days:

48 (A) has been employed by a participating employer; and

49 (B) accrued service credit.

50 (b) "Active member" does not include a retiree.

51 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the

52 basis of mortality tables as recommended by the actuary and adopted by the executive director,

53 including regular interest.

54 (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and

55 adopted by the board upon which the funding of system costs and benefits are computed.

56 (4) (a) "Agency" means:

57 (i) a department, division, agency, office, authority, commission, board, institution, or

58 hospital of the state;

59 (ii) a county, municipality, school district, local district, or special service district;

60 (iii) a state college or university; or

61 (iv) any other participating employer.

62 (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a

63 subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

(7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with policies established by the board upon the advice of the actuary.

(8) "Annuity" means monthly payments derived from member contributions.

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) "At-will employee" means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer's merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person's employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) "Beneficiary" means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) "Board" means the Utah State Retirement Board established under Section 49-11-202.

(13) "Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

(14) "Board of Regents" or "State Board of Regents" means the State Board of Regents established in Section 53B-1-103.

(15) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(16) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(17) "Council member" means a person serving on the Membership Council established under Section ~~[49-11-202]~~ 49-11-205.

(18) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(19) "Current service" means covered service under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act;

(h) Chapter 19, Utah Governors' and Legislators' Retirement Act;

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

126 (a) years of service;

127 (b) final average monthly salary; or

128 (c) a retirement multiplier.

129 (21) "Defined contribution" or "defined contribution plan" means any defined
130 contribution plan or deferred compensation plan authorized under the Internal Revenue Code
131 and administered by the board.

132 (22) "Educational institution" means a political subdivision or instrumentality of the
133 state or a combination thereof primarily engaged in educational activities or the administration
134 or servicing of educational activities, including:

135 (a) the State Board of Education and its instrumentalities;

136 (b) any institution of higher education and its branches;

137 (c) any school district and its instrumentalities;

138 (d) any vocational and technical school; and

139 (e) any entity arising out of a consolidation agreement between entities described under
140 this Subsection (22).

141 (23) "Elected official":

142 (a) means a person elected to a state office, county office, municipal office, school
143 board or school district office, local district office, or special service district office;

144 (b) includes a person who is appointed to serve an unexpired term of office described
145 under Subsection (23)(a); and

146 (c) does not include a judge or justice who is subject to a retention election under
147 Section 20A-12-201.

148 (24) (a) "Employer" means any department, educational institution, or political
149 subdivision of the state eligible to participate in a government-sponsored retirement system
150 under federal law.

151 (b) "Employer" may also include an agency financed in whole or in part by public
152 funds.

153 (25) "Exempt employee" means an employee working for a participating employer:

154 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
155 49-14-203, 49-15-203, or 49-16-203; and

156 (b) for whom a participating employer is not required to pay contributions or

157 nonelective contributions.

158 (26) "Final average monthly salary" means the amount computed by dividing the
159 compensation received during the final average salary period under each system by the number
160 of months in the final average salary period.

161 (27) "Fund" means any fund created under this title for the purpose of paying benefits
162 or costs of administering a system, plan, or program.

163 (28) (a) "Inactive member" means a member who has not been employed by a
164 participating employer for a period of at least 120 days.

165 (b) "Inactive member" does not include retirees.

166 (29) (a) "Initially entering" means hired, appointed, or elected for the first time, in
167 current service as a member with any participating employer.

168 (b) "Initially entering" does not include a person who has any prior service credit on
169 file with the office.

170 (c) "Initially entering" includes an employee of a participating employer, except for an
171 employee that is not eligible under a system or plan under this title, who:

172 (i) does not have any prior service credit on file with the office;

173 (ii) is covered by a retirement plan other than a retirement plan created under this title;

174 and

175 (iii) moves to a position with a participating employer that is covered by this title.

176 (30) "Institution of higher education" means an institution described in Section
177 53B-1-102.

178 (31) (a) "Member" means a person, except a retiree, with contributions on deposit with
179 a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah
180 Governors' and Legislators' Retirement Act, or with a terminated system.

181 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)
182 of the Internal Revenue Code, if the employees have contributions on deposit with the office.
183 If leased employees constitute less than 20% of the participating employer's work force that is
184 not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code,
185 "member" does not include leased employees covered by a plan described in Section 414(n)(5)
186 of the federal Internal Revenue Code.

187 (32) "Member contributions" means the sum of the contributions paid to a system or

188 the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a
189 system, and which are made by:

190 (a) the member; and

191 (b) the participating employer on the member's behalf under Section 414(h) of the
192 Internal Revenue Code.

193 (33) "Nonelective contribution" means an amount contributed by a participating
194 employer into a participant's defined contribution account.

195 (34) "Normal cost rate":

196 (a) means the percent of salary that is necessary for a retirement system that is fully
197 funded to maintain its fully funded status; and

198 (b) is determined by the actuary based on the assumed rate of return established by the
199 board.

200 (35) "Office" means the Utah State Retirement Office.

201 (36) "Participant" means an individual with voluntary deferrals or nonelective
202 contributions on deposit with the defined contribution plans administered under this title.

203 (37) "Participating employer" means a participating employer, as defined by Chapter
204 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
205 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
206 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
207 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'
208 Noncontributory Retirement Act, or an agency financed in whole or in part by public funds
209 which is participating in a system or plan as of January 1, 2002.

210 (38) "Part-time appointed board member" means a person:

211 (a) who is appointed to serve as a member of a board, commission, council, committee,
212 or panel of a participating employer; and

213 (b) whose service as a part-time appointed board member does not qualify as a regular
214 full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102.

215 (39) "Pension" means monthly payments derived from participating employer
216 contributions.

217 (40) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by
218 Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier

219 II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan,
220 the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23,
221 Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under
222 Section 49-11-801.

223 (41) (a) "Political subdivision" means any local government entity, including cities,
224 towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally
225 separate and distinct from the state and only if its employees are not by virtue of their
226 relationship to the entity employees of the state.

227 (b) "Political subdivision" includes local districts, special service districts, or
228 authorities created by the Legislature or by local governments, including the office.

229 (c) "Political subdivision" does not include a project entity created under Title 11,
230 Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

231 (42) "Program" means the Public Employees' Insurance Program created under Chapter
232 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
233 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
234 Disability Act.

235 (43) "Public funds" means those funds derived, either directly or indirectly, from public
236 taxes or public revenue, dues or contributions paid or donated by the membership of the
237 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,
238 the governmental, educational, and social programs and systems of the state or its political
239 subdivisions.

240 (44) "Qualified defined contribution plan" means a defined contribution plan that
241 meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

242 (45) "Refund interest" means the amount accrued on member contributions at a rate
243 adopted by the board.

244 (46) "Retiree" means an individual who has qualified for an allowance under this title.

245 (47) "Retirement" means the status of an individual who has become eligible, applies
246 for, and is entitled to receive an allowance under this title.

247 (48) "Retirement date" means the date selected by the member on which the member's
248 retirement becomes effective with the office.

249 (49) "Retirement related contribution":

250 (a) means any employer payment to any type of retirement plan or program made on
251 behalf of an employee; and

252 (b) does not include Social Security payments or Social Security substitute payments
253 made on behalf of an employee.

254 (50) "Service credit" means:

255 (a) the period during which an employee is employed and compensated by a
256 participating employer and meets the eligibility requirements for membership in a system or the
257 Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are
258 paid to the office; and

259 (b) periods of time otherwise purchasable under this title.

260 (51) "Surviving spouse" means:

261 (a) the lawful spouse who has been married to a member for at least six months
262 immediately before the death date of the member; or

263 (b) a former lawful spouse of a member with a valid domestic relations order benefits
264 on file with the office before the member's death date in accordance with Section 49-11-612.

265 (52) "System" means the individual retirement systems created by Chapter 12, Public
266 Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory
267 Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public
268 Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17,
269 Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and
270 Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the
271 Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System,
272 and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part
273 3, Tier II Hybrid Retirement System.

274 (53) "Technical college" means the same as that term is defined in Section
275 53B-1-101.5.

276 (54) "Tier I" means a system or plan under this title for which:

277 (a) an employee is eligible to participate if the employee initially enters regular
278 full-time employment before July 1, 2011; or

279 (b) a governor or legislator who initially enters office before July 1, 2011.

280 (55) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I

system or plan for an employee, governor, legislator, or full-time elected official who does not have Tier I service credit in a system or plan under this title:

(i) if the employee initially enters regular full-time employment on or after July 1, 2011; or

(ii) if the governor, legislator, or full-time elected official initially enters office on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

(56) "Unfunded actuarial accrued liability" or "UAAL":

(a) is determined by the system's actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

(57) "Voluntary deferrals" means an amount contributed by a participant into that participant's defined contribution account.

Section 2. Section **49-11-202** is amended to read:

49-11-202. Establishment of Utah State Retirement Board -- Quorum -- Terms -- Officers -- Expenses and per diem.

(1) There is established the Utah State Retirement Board composed of seven board members determined as follows:

(a) Four board members, with experience in investments or banking, shall be appointed by the governor from the general public.

(b) One board member shall be a school employee appointed by the governor from at least three nominations submitted by the governing board of the school employees' association that is representative of a majority of the school employees who are members of a system administered by the board.

(c) One board member shall be a public employee appointed by the governor from at

least three nominations submitted by the governing board of the public employee association that is representative of a majority of the public employees who are members of a system administered by the board.

(d) One board member shall be the state treasurer.

(2) Four board members constitute a quorum for the transaction of business.

(3) (a) All appointments to the board shall be made on a nonpartisan basis, with the consent of the Senate.

(b) Board members shall serve until their successors are appointed and take the constitutional oath of office.

(c) When a vacancy occurs on the board for any reason, the replacement shall be appointed for the unexpired term.

(4) (a) Except as required by Subsection (4)(b), all appointed board members shall serve for four-year terms.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that:

(i) approximately half of the board is appointed every two years; and

(ii) no more than two of the board members appointed under Subsection (1)(a) are appointed every two years.

(c) A board member who is appointed as a school employee or as a public employee who retires or who is no longer employed with a participating employer shall immediately resign from the board.

(5) (a) Each year the board shall elect a president and vice president from its membership.

(b) A board member may not receive compensation or benefits for the board member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

~~[(6) (a) There is established a Membership Council to perform the duties under~~

Subsection (10).]

~~[(b) A member of the council may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:]~~

~~[(i) Section 63A-3-106;]~~

~~[(ii) Section 63A-3-107; and]~~

~~[(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.]~~

~~[(7) The Membership Council shall be composed of 13 council members selected as follows:]~~

~~[(a) Three council members shall be school employees selected by the governing board of an association representative of a majority of school employees who are members of a system administered by the board.]~~

~~[(b) One council member shall be a classified school employee selected by the governing board of the association representative of a majority of classified school employees who are members of a system administered by the board.]~~

~~[(c) Two council members shall be public employees selected by the governing board of the association representative of a majority of the public employees who are members of a system administered by the board.]~~

~~[(d) One council member shall be a municipal officer or employee selected by the governing board of the association representative of a majority of the municipalities who participate in a system administered by the board.]~~

~~[(e) One council member shall be a county officer or employee selected by the governing board of the association representative of a majority of counties who participate in a system administered by the board.]~~

~~[(f) One council member shall be a representative of members of the Judges' Noncontributory Retirement System selected by the Judicial Council.]~~

~~[(g) One council member shall be a representative of members of the Public Safety Retirement Systems selected by the governing board of the association representative of the majority of peace officers who are members of the Public Safety Retirement Systems.]~~

~~[(h) One council member shall be a representative of members of the Firefighters' Retirement System selected by the governing board of the association representative of the~~

majority of paid professional firefighters who are members of the Firefighters' Retirement System.]

~~[(i) One council member shall be a retiree selected by the governing board of the association representing the largest number of retirees, who are not public education retirees, from the Public Employees' Contributory and Public Employees' Noncontributory Retirement Systems.]~~

~~[(j) One council member shall be a retiree selected by the governing board of the association representing the largest number of public education retirees.]~~

~~[(8)(a) Each entity granted authority to select council members under Subsection (7) may also revoke the selection at any time.]~~

~~[(b) Each term on the council shall be for a period of four years, subject to Subsection (8)(a).]~~

~~[(c) Each term begins on July 1 and expires on June 30.]~~

~~[(d) When a vacancy occurs on the council for any reason, the replacement shall be selected for the remainder of the unexpired term.]~~

~~[(9) The council shall annually designate one council member as chair.]~~

~~[(10) The council shall:]~~

~~[(a) recommend to the board and to the Legislature benefits and policies for members of any system or plan administered by the board;]~~

~~[(b) recommend procedures and practices to improve the administration of the systems and plans and the public employee relations responsibilities of the board and office;]~~

~~[(c) examine the record of all decisions affecting retirement benefits made by a hearing officer under Section 49-11-613;]~~

~~[(d) submit nominations to the board for the position of executive director if that position is vacant;]~~

~~[(e) advise and counsel with the board and the director on policies affecting members of the various systems administered by the office; and]~~

~~[(f) perform other duties assigned to it by the board.]~~

Section 3. Section **49-11-204** is amended to read:

49-11-204. Powers and duties of executive director.

The executive director shall:

(1) act as the executive officer of the board and the office;

(2) administer the various systems, plans, programs, and functions assigned to the board or office;

(3) subject to board review, develop and implement internal policies and procedures which administer and govern the day-to-day operations of the systems, plans, and programs;

(4) transmit orders of a hearing officer made under Section 49-11-613 to the board;

(5) provide information concerning the operation of the office to the board, the governor, the Legislature, participating employers, and employer and employee associations, unless otherwise restricted under Section 49-11-618;

(6) inform the Legislature of any recommendations from the board regarding any necessary or desirable changes to this title;

(7) consult with the Legislature on all legislation under this title;

(8) (a) recommend to the board an annual administrative budget covering the operations of the office and, upon approval, submit the budget along with the actuarial status of the funds to the governor and the Legislature for review and comment; and

(b) direct and control the subsequent expenditures of the budget;

(9) employ, within the limitations of the budget, personnel to administer the systems, plans, programs, and funds assigned to the office, including consultants, actuaries, attorneys, medical examiners, investment counselors, and accountants to accomplish the purposes of this title;

(10) establish independent financial records for each of the systems, plans, and programs or combine all financial records using acceptable principles of accounting to identify the assets and vested interests of each system, plan, or program;

(11) maintain individual records necessary to provide benefits under this title;

(12) keep in convenient form all records, accounts, and data necessary for the administration and actuarial valuation of the systems, plans, and programs;

(13) adopt fees, charges, and upon the recommendation of the actuary, interest rates and tables for the administration of the systems, plans, and programs;

(14) ~~[consolidate into one]~~ make payment of all monthly allowances and any defined contribution distributions, and may consolidate payments at the sole discretion of the executive director;

(15) ensure that [if] the integrity of the various funds is maintained through appropriate accounting records;

~~[(15)]~~ (16) at least every three years:

(a) make an actuarial investigation into the mortality, service, and other experience of the members, participants, beneficiaries, and covered individuals of the systems, plans, and programs;

(b) actuarially value the assets and liabilities of the administered funds and accounts; and

(c) determine the rate of interest being earned by the funds;

~~[(16)]~~ (17) report to the board findings under Subsection ~~[(15)]~~ (16), with recommendations, including proposed changes in the rates of contribution or benefits that are necessary to maintain the actuarial soundness of the systems, plans, or programs;

~~[(17)]~~ (18) regulate participating employers by:

(a) educating them on their duties imposed by this title;

(b) specifying the time, place, and manner in which contributions shall be withheld and paid; and

(c) requiring any reports necessary for the administration of this title; and

~~[(18)]~~ (19) otherwise exercise the powers and perform the duties conferred on the executive director by this title.

Section 4. Section **49-11-205** is enacted to read:

49-11-205. Membership Council established -- Members -- Chair -- Duties -- Expenses and per diem.

(1) There is established a Membership Council to perform the duties under Subsection (5).

(2) The Membership Council shall be composed of 15 council members selected as follows:

(a) three council members shall be school employees selected by the governing board of an association representative of a majority of school employees who are members of a system administered by the board;

(b) one council member shall be a classified school employee selected by the governing board of the association representative of a majority of classified school employees

467 who are members of a system administered by the board;

468 (c) two council members shall be public employees selected by the governing board of
469 the association representative of a majority of the public employees who are members of a
470 system administered by the board;

471 (d) one council member shall be a municipal officer or employee selected by the
472 governing board of the association representative of a majority of the municipalities who
473 participate in a system administered by the board;

474 (e) one council member shall be a county officer or employee selected by the governing
475 board of the association representative of a majority of counties who participate in a system
476 administered by the board;

477 (f) one council member shall be a representative of members of the Judges'
478 Noncontributory Retirement System selected by the Judicial Council;

479 (g) one council member shall be a representative of members of the Public Safety
480 Retirement Systems selected by the governing board of the association representative of the
481 majority of peace officers who are members of the Public Safety Retirement Systems;

482 (h) one council member shall be a representative of members of the Firefighters'
483 Retirement System selected by the governing board of the association representative of the
484 majority of paid professional firefighters who are members of the Firefighters' Retirement
485 System;

486 (i) one council member shall be a retiree selected by the governing board of the
487 association representing the largest number of retirees, who are not public education retirees,
488 from the Public Employees' Contributory, Public Employees' Noncontributory, and New Public
489 Employees' Tier II Contributory Retirement Systems;

490 (j) one council member shall be a retiree selected by the governing board of the
491 association representing the largest number of public education retirees;

492 (k) one council member shall be a school business official selected by the governing
493 board of the association representative of a majority of the school business officials from
494 public education employers who participate in a system administered by the board; and

495 (l) one council member shall be a special district officer or employee selected by the
496 governing board of the association representative of a majority of special service districts and
497 local districts who participate in a system administered by the board.

498 (3) (a) Each entity granted authority to select council members under Subsection (2)
499 may also revoke the selection at any time.

500 (b) Each term on the council shall be for a period of four years, subject to Subsection
501 (3)(a).

502 (c) Each term begins on July 1 and expires on June 30.

503 (d) When a vacancy occurs on the council for any reason, the replacement shall be
504 selected for the remainder of the unexpired term.

505 (4) The council shall annually designate one council member as chair.

506 (5) The council shall:

507 (a) recommend to the board and to the Legislature benefits and policies for members of
508 any system or plan administered by the board;

509 (b) recommend procedures and practices to improve the administration of the systems
510 and plans and the public employee relations responsibilities of the board and office;

511 (c) examine the record of all decisions affecting retirement benefits made by a hearing
512 officer under Section 49-11-613;

513 (d) submit nominations to the board for the position of executive director if that
514 position is vacant;

515 (e) advise and counsel with the board and the director on policies affecting members of
516 the various systems administered by the office; and

517 (f) perform other duties assigned to it by the board.

518 (6) A member of the council may not receive compensation or benefits for the
519 member's service, but may receive per diem and travel expenses in accordance with:

520 (i) Section 63A-3-106;

521 (ii) Section 63A-3-107; and

522 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
523 63A-3-107.

524 Section 5. Section **49-11-607** is amended to read:

525 **49-11-607. Determination of benefits -- Errors in records or calculations --**
526 **Correction of errors by the office.**

527 (1) After the retirement date, which shall be set by a member in the member's
528 application for retirement, no alteration, addition, or cancellation of a benefit may be made

except as provided in Subsections (2), (3), and (4) or other law.

(2) (a) Errors in the records or in the calculations of the office which result in an incorrect benefit to any member, retiree, participant, covered individual, alternate payee, or beneficiary shall be corrected by the office if the correction results in a modification of the benefit amount of \$5 or more.

(b) Future payments shall be made to any member, retiree, participant, covered individual, alternate payee, or beneficiary to:

(i) pay the benefit to which the member or beneficiary was entitled; or

(ii) recover any overpayment.

(3) (a) Errors in the records or calculation of a participating employer which result in an incorrect benefit to a member, retiree, participant, covered individual, alternate payee, or beneficiary shall be corrected by the participating employer.

(b) If insufficient employer contributions have been received by the office, the participating employer shall pay any delinquent employer contributions, plus interest under Section 49-11-503, required by the office to maintain the system, plan, or program affected on an actuarially sound basis.

(c) If excess contributions have been received by the office, the contributions shall be refunded to the participating employer or member which paid the contributions.

(4) If a dispute exists between a participating employer and a member or the office and a member at the time of the member's retirement which will affect the member's benefit calculation, and notice of the dispute is given to the office prior to the calculation of a member's benefit, the benefit may be paid based on the member's retirement date and the records available and then recalculated upon settlement of the dispute.

Section 6. Section **49-12-406** is amended to read:

49-12-406. Exceptions for part-time elective or appointive service -- Computation of allowance -- Justice court judges.

(1) Notwithstanding the provisions of Sections 49-11-401 and 49-12-102, and unless otherwise provided in this section, a member's elective or appointive service rendered on a basis not considered full-time by the office shall have a separate allowance computed on the basis of compensation actually received by the member during the period of elective or appointive service.

(2) (a) A justice court judge who has service with only one participating employer shall be ~~be [considered]~~ determined to be part-time or full-time by the office ~~[as]~~ after a review of the employment facts and circumstances certified by the participating employer to the office.

(b) If a justice court judge has a combination of part-time service and full-time position service with one participating employer, the office shall compute separate allowances on the basis of compensation actually received by the judge during the part-time and full-time periods of service.

(3) (a) A justice court judge who has service with more than one participating employer shall be considered full-time by the office for a period of service in which the judge is certified as full-time by:

(i) a participating employer; or

(ii) the Administrative Office of the Courts beginning on or after January 1, 2009, based on the judge's aggregate caseload of the multiple employers as determined by the judge's caseloads of the individual courts of each employer in accordance with Subsection 78A-7-206(1)(b)(ii).

(b) If a justice court judge has full-time service under Subsection (3)(a), the office shall compute an allowance on the basis of total compensation actually received from all participating employers by the judge during the total period of full-time service.

(c) If a justice court judge has part-time service performed that is not within a period considered full-time service under Subsection (3)(a), the office shall compute a separate allowance on the basis of compensation actually received by the member during the period of part-time service.

(4) All of the service rendered by a justice court judge in any one fiscal or calendar year may not count for more than one year of service credit.

Section 7. Section **49-13-402** is amended to read:

49-13-402. Service retirement plans -- Calculation of retirement allowance.

(1) (a) Except as provided under Subsection (7) or Section 49-13-701, retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 30 years of service credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary multiplied by the number of years of service credit accrued.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which event no reduction is made to the allowance.

(c) (i) Years of service include any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within 1/10 of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) (i) The final average salary is limited in the computation of that part of an allowance based on service rendered prior to July 1, 1967, during a period when the retiree received employer contributions on a portion of compensation from an educational institution toward the payment of the premium required on a retirement annuity contract with a public or private system, organization, or company designated by the State Board of Regents to \$4,800.

(ii) This limitation is not applicable to retirees who elected to continue in the Public Employees' Contributory Retirement System by July 1, 1967.

(b) Periods of employment which are exempt from this system as permitted under Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement only if all benefits from a public or private system, organization, or company designated by the State Board of Regents based on this period of employment are forfeited.

(5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(6) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the

retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

(b) A conversion to an Option One benefit under this Subsection (6) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.

(7) A retiree may not choose payment of an allowance under a retirement option described in this section that is not applicable to that retiree, including because the retiree did not make member contributions or does not have a lawful spouse at the time of retirement.

Section 8. Section **49-13-406** is amended to read:

49-13-406. Exceptions for part-time elective or appointive service -- Computation of allowance -- Justice court judges.

(1) Notwithstanding the provisions of Sections 49-11-401 and 49-13-102, and unless otherwise provided in this section, a member's elective or appointive service rendered on a basis not considered full-time by the office shall have a separate allowance computed on the basis of compensation actually received by the member during the period of elective or appointive service.

(2) (a) A justice court judge who has service with only one participating employer shall be ~~considered~~ determined to part-time or full-time by the office ~~as~~ after a review of the employment facts and circumstances certified by the participating employer to the office.

(b) If a justice court judge has a combination of part-time service and full-time position service with one participating employer, the office shall compute separate allowances on the basis of compensation actually received by the judge during the part-time and full-time periods of service.

(3) (a) A justice court judge who has service with more than one participating employer shall be considered full-time by the office for a period of service in which the judge is certified as full-time by:

(i) a participating employer; or

(ii) the Administrative Office of the Courts beginning on or after January 1, 2009, based on the judge's aggregate caseload of the multiple employers as determined by the judge's caseloads of the individual courts of each employer in accordance with Subsection 78A-7-206(1)(b)(ii).

(b) If a justice court judge has full-time service under Subsection (3)(a), the office shall compute an allowance on the basis of total compensation actually received from all participating employers by the judge during the total period of full-time service.

(c) If a justice court judge has part-time service performed that is not within a period considered full-time service under Subsection (3)(a), the office shall compute a separate allowance on the basis of compensation actually received by the member during the period of part-time service.

(4) All of the service rendered by a justice court judge in any one fiscal or calendar year may not count for more than one year of service credit.

Section 9. Section **49-22-103** is amended to read:

49-22-103. Creation of system.

(1) There is created for members employed by a participating employer the "New Public Employees' Tier II Contributory Retirement System."

(2) The New Public Employees' Tier II Contributory Retirement System includes:

(a) the Tier II hybrid retirement system created in Part 3, Tier II Hybrid Retirement System; and

(b) the Tier II defined contribution plan created in Part 4, Tier II Defined Contribution Plan.

(3) The system may also be known and function as the Public Employees' Tier 2 Contributory Retirement System, the Tier 2 Hybrid Retirement System, and the Tier 2 Defined Contribution Plan.

Section 10. Section **49-22-305** is amended to read:

49-22-305. Defined benefit service retirement plans -- Calculation of retirement allowance -- Social security limitations.

(1) (a) ~~[The]~~ Except as provided under Subsection (6), the retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an annual allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 35 years of service credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied

by the number of years of service credit accrued on and after July 1, 2011.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full actuarial amount for each year of retirement from age 60 to age 65, unless the member has 35 or more years of accrued credit in which event no reduction is made to the allowance.

(c) (i) Years of service includes any fractions of years of service to which the retiree may be entitled.

(ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service credit is within one-tenth of one year of the total years of service credit required for retirement, the retiree shall be considered to have the total years of service credit required for retirement.

(d) An Option One allowance is only payable to the member during the member's lifetime.

(3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated by reducing an Option One benefit based on actuarial computations to provide the following:

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

(d) Option Five is a modification of Option Three so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office,

if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

(b) A conversion to an Option One benefit under this Subsection (5) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.

(6) A retiree may not choose payment of an allowance under a retirement option described in this section that is not applicable to that retiree, including because the retiree did not make member contributions or does not have a lawful spouse at the time of retirement.

Section 11. Section **49-22-310** is amended to read:

49-22-310. Defined benefit adjustments -- Conditions -- Process -- Future years accrual.

(1) In accordance with this section, the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if the member's contribution required under Subsection 49-22-301(2)(b)

to the certified contribution rate for the defined benefit portion of this system exceeds 2% of the member's salary and:

- (a) (i) the membership council created under Section ~~[49-11-202]~~ 49-11-205 recommends an adjustment to the board in accordance with Subsection (2); and
- (ii) the board recommends specific adjustments to the Legislature in accordance with Subsection (2); or
- (b) an actuarial study that conforms with generally accepted actuarial principles and practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board and requested or commissioned by the board or the Legislature concludes:
 - (i) there is a significant likelihood that contribution rates will continue to rise; and
 - (ii) that participating employers are liable for system costs above the contribution rate established under Subsection 49-22-301(2)(a).

(2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or applied for future years of service including:

- (a) the final average salary calculation provided under Section 49-22-102;
- (b) the years of service required to be eligible to receive a retirement allowance under Section 49-22-304;
- (c) the years of service credit multiplier established under Subsection 49-22-305(2)(a);
- (d) the annual cost-of-living adjustment under Section 49-22-308; or
- (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement System.

(3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if an actuarial study described under Subsection (1)(b) concludes, due to current and projected economic conditions, member participation levels, and system structure, that the system:

- (i) cannot reasonably be sustained under its current provisions;
 - (ii) is critically underfunded; and
 - (iii) has become unstable and is in risk of collapse.
- (b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

- (i) conversion to a different type of retirement plan;
- (ii) equitable distribution of system assets to retirees and members; and
- (iii) a closure of the system.

Section 12. Section **49-23-103** is amended to read:

49-23-103. Creation of system.

(1) There is created for members employed by a participating employer the "New Public Safety and Firefighter Tier II Contributory Retirement System."

(2) The New Public Safety and Firefighter Tier II Contributory Retirement System includes:

(a) the Tier II hybrid retirement system created in Part 3, Tier II Hybrid Retirement System; and

(b) the Tier II defined contribution plan created in Part 4, Tier II Defined Contribution Plan.

(3) The system may also be known and function as the Public Safety and Firefighter Tier 2 Contributory Retirement System, the Tier 2 Hybrid Retirement System, and the Tier 2 Defined Contribution Plan.

Section 13. Section **49-23-304** is amended to read:

49-23-304. Defined benefit service retirement plans -- Calculation of retirement allowance -- Social security limitations.

(1) (a) ~~[The]~~ Except as provided under Subsection (6), the retirees of this system may choose from the six retirement options described in this section.

(b) Options Two, Three, Four, Five, and Six are modifications of the Option One calculation.

(2) The Option One benefit is an annual allowance calculated as follows:

(a) If the retiree is at least 65 years of age or has accrued at least 25 years of service credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2011.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25 or more years of accrued credit in which event no reduction is made to the allowance.

(c) (i) Years of service includes any fractions of years of service to which the retiree

839 may be entitled.

840 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
841 service credit is within 1/10 of one year of the total years of service credit required for
842 retirement, the retiree shall be considered to have the total years of service credit required for
843 retirement.

844 (d) An Option One allowance is only payable to the member during the member's
845 lifetime.

846 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
847 by reducing an Option One benefit based on actuarial computations to provide the following:

848 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
849 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
850 member contributions, the remaining balance of the retiree's member contributions shall be
851 paid in accordance with Sections 49-11-609 and 49-11-610.

852 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
853 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout
854 the lifetime of the retiree's lawful spouse at the time of retirement.

855 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
856 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is
857 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

858 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
859 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
860 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
861 retiree's life, beginning on the first day of the month following the month in which the:

862 (i) spouse died, if notification and supporting documentation for the death are received
863 by the office within 90 days of the spouse's death; or

864 (ii) notification and supporting documentation for the death are received by the office,
865 if the notification and supporting documentation are received by the office more than 90 days
866 after the spouse's death.

867 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
868 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
869 of initial retirement under Option One shall be paid to the retiree for the remainder of the

retiree's life, beginning on the first day of the month following the month in which the:

(i) spouse died, if notification and supporting documentation for the death are received by the office within 90 days of the spouse's death; or

(ii) notification and supporting documentation for the death are received by the office, if the notification and supporting documentation are received by the office more than 90 days after the spouse's death.

(4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

(b) Any payments made to the retiree shall be deducted from the amounts due to the beneficiary.

(5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

(b) A conversion to an Option One benefit under this Subsection (5) begins on the first day of the month following the month in which the notification and supporting documentation for the divorce are received by the office.

(6) A retiree may not choose payment of an allowance under a retirement option described in this section that is not applicable to that retiree, including because the retiree did not make member contributions or does not have a lawful spouse at the time of retirement.

Section 14. Section **49-23-309** is amended to read:

49-23-309. Defined benefit adjustments -- Conditions -- Process -- Future years accrual.

(1) In accordance with this section, the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if the member's contribution required under Subsection 49-23-301(2)(b) to the certified contribution rate for the defined benefit portion of this system exceeds 2% of the member's salary and:

(a) (i) the membership council created under Section ~~[49-11-202]~~ 49-11-205 recommends an adjustment to the board in accordance with Subsection (2); and

(ii) the board recommends specific adjustments to the Legislature in accordance with

901 Subsection (2); or

902 (b) an actuarial study that conforms with generally accepted actuarial principles and
903 practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board
904 and requested or commissioned by the board or the Legislature concludes:

905 (i) there is a significant likelihood that contribution rates will continue to rise; and

906 (ii) that participating employers are liable for system costs above the contribution rate
907 established under Subsection 49-23-301(2)(a).

908 (2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust
909 benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or
910 applied for future years of service including:

911 (a) the final average salary calculation provided under Section 49-23-102;

912 (b) the years of service required to be eligible to receive a retirement allowance under
913 Section 49-23-303;

914 (c) the years of service credit multiplier established under Subsection 49-23-304(2)(a);

915 (d) the annual cost-of-living adjustment under Section 49-23-307; or

916 (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement
917 System.

918 (3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may
919 make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid
920 Retirement System created under this part if an actuarial study described under Subsection
921 (1)(b) concludes, due to current and projected economic conditions, member participation
922 levels, and system structure, that the system:

923 (i) cannot reasonably be sustained under its current provisions;

924 (ii) is critically underfunded; and

925 (iii) has become unstable and is in risk of collapse.

926 (b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

927 (i) conversion to a different type of retirement plan;

928 (ii) equitable distribution of system assets to retirees and members; and

929 (iii) a closure of the system.

930 **Section 15. Effective date.**

931 This bill takes effect on July 1, 2019.

